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Arizona Corporation Commission

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BEFORE THE ARIZONA CORPORATION COMMISSION

ASSET TRUST MANAGEMENT, CORP.,

DOCKET NO: W-03512A-06-0613

Complainants,

v.

PINE WATER COMPANY, an Arizona
Corporation,

PINE WATER COMPANY'S
OPPOSITION TO COMPLAINANT'S
MOTION TO CONSOLIDATE

Respondent.

Pursuant to A.A.C. R14-3-106(k), Pine Water Company ("PWCo") hereby files this Opposition to Complainant's Motion to Consolidate filed on September 26, 2006, in the above-captioned matter. This Opposition is supported by the attached Memorandum of Points and Authorities.

MEMORANDUM OF POINTS AND AUTHORITIES

Complainant Asset Trust Management Corp. ("ATM") moves to have its Complaint consolidated with another complaint, *Pugel Family Trust et al v. Pine Water Company*, Docket No. W-03512A-06-0407 (hereinafter "*Pugel*") currently pending before the Arizona Corporation Commission on the grounds that these two cases contain common issues of fact and questions of law, and similar parties. PWCo disagrees with Complainant's assertions, and opposes the Motion to Consolidate. While both complaints allege similar violations of state and federal law with respect to the taking of private


1 property, there are no common issues of fact except that PWCo is precluded from
2 extending service to the subject properties in both cases due to a total moratorium
3 imposed by the Commission in Decision No. 67823 (May 5, 2005).

4 Certainly, no similarity of the parties involved in the two separate proceedings is
5 shown and no relationship of ATM to either of the complainants in the *Pugel* matter is
6 even alleged. Moreover, although ATM fails to make any allegation regarding the
7 existence of an independent water source, ATM claims its property is already developed.
8 In contrast, in *Pugel* complainants allege the existence of an independent source of water
9 in connection with seeking deletion from PWCo's in order to allegedly utilize an existing
10 well to begin development of the subject property. *See Pugel* Complaint at 3. Thus,
11 issues related to water resources as well as the likelihood of development are very
12 different in the two matters.

13 Thus, it does not appear that consolidating the two complaints will afford any
14 significant saving of the resources of the Commission or the parties. In short, PWCo
15 asserts that the absence of common issues of fact and similar parties warrants denial of
16 Complainant's Motion to Consolidate.

17 RESPECTFULLY SUBMITTED this 11th day of October, 2006.

18 FENNEMORE CRAIG, P.C.

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20
21 By 
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1 ORIGINAL and thirteen (13) copies of the
2 foregoing filed this 11th day of October, 2006:

3 Docket Control
4 Arizona Corporation Commission
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6 Phoenix, AZ 85007

7 Copy of the foregoing hand delivered
8 this 11th day of October, 2006, to:

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